

1 AN ACT

2 RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; REQUIRING
3 CONSTRUCTION OF SCHOOL FACILITIES TO COMPLY WITH THE
4 STATEWIDE ADEQUACY STANDARDS; REQUIRING MAINTENANCE PLANS FOR
5 ALL PUBLIC SCHOOLS; INCREASING DISTRIBUTIONS PURSUANT TO THE
6 PUBLIC SCHOOL CAPITAL IMPROVEMENTS ACT; CREATING A PROGRAM TO
7 REPAIR OR REPLACE DAMAGED ROOFS OF PUBLIC SCHOOL FACILITIES;
8 PROVIDING STANDARDS FOR CHARTER SCHOOL FACILITIES; PROVIDING
9 FOR THE ASSESSMENT OF CHARTER SCHOOL FACILITIES; EXTENDING
10 THE TIME PERIOD OF EXEMPT STATUS FOR PUBLIC SCHOOL FACILITIES
11 AUTHORITY EMPLOYEES; SHIFTING THE OFFSET FOR PREVIOUS
12 APPROPRIATIONS FOR EDUCATIONAL TECHNOLOGY; CHANGING CERTAIN
13 FUNDING CRITERIA FOR PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS;
14 CHANGING THE DUTIES, COMPOSITION AND TERM OF THE PUBLIC
15 SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE; RESTRICTING
16 PROPERTY INSURANCE PROCEEDS; PROVIDING THAT CERTAIN BOND
17 PROCEEDS BE TRANSFERRED IMMEDIATELY UPON SALE OF THE BONDS;
18 REQUIRING THE APPLICATION OF STATE CONSTRUCTION STANDARDS AND
19 CERTAIN FIRE REGULATIONS TO PUBLIC SCHOOL FACILITIES; MAKING
20 APPROPRIATIONS; DECLARING AN EMERGENCY.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

23 Section 1. A new section of the Severance Tax Bonding
24 Act, Section 7-27-12.3 NMSA 1978, is enacted to read:

25 "7-27-12.3. ADMINISTRATION OF CERTAIN BOND PROCEEDS

1 APPROPRIATED TO THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--
2 Proceeds of severance tax bonds and supplemental severance
3 tax bonds previously or hereafter issued by the state board
4 of finance that are appropriated to the public school capital
5 outlay fund for the purpose of carrying out the provisions of
6 the Public School Capital Outlay Act shall, except to the
7 extent that the proceeds are derived from any bonds the
8 interest on which is excluded from federal income tax, be
9 transferred by the state board of finance immediately upon
10 receipt to the public school capital outlay fund. All money
11 so transferred shall be administered for disbursement
12 purposes by the public school capital outlay council
13 consistent with the requirements of the Public School Capital
14 Outlay Act."

15 Section 2. A new section of the 1999 Charter Schools
16 Act, Section 22-8B-4.2 NMSA 1978, is enacted to read:

17 "22-8B-4.2. CHARTER SCHOOL FACILITIES--STANDARDS.--

18 A. The facilities of a charter school that is
19 approved on or after July 1, 2005 and before July 1, 2010
20 shall meet educational occupancy standards required by
21 applicable New Mexico construction codes.

22 B. The facilities of a charter school that is in
23 existence, or has been approved, prior to July 1, 2005 shall
24 be evaluated, prioritized and eligible for grants pursuant to
25 the Public School Capital Outlay Act in the same manner as

1 all other public schools in the state; provided that for
2 charter school facilities in leased facilities, grants may be
3 used as additional lease payments for leasehold improvements.

4 C. On or after July 1, 2010, an application for a
5 charter shall not be approved and an existing charter shall
6 not be renewed unless the charter school:

7 (1) is housed in a public building that is:

8 (a) owned by the charter school, the
9 school district, the state, an institution of the state,
10 another political subdivision of the state, the federal
11 government or one of its agencies or a tribal government; and

12 (b) subject to evaluation and
13 prioritization and eligible for grants pursuant to the Public
14 School Capital Outlay Act in the same manner as all other
15 public schools in the state; or

16 (2) if it is not housed in a public building
17 described in Paragraph (1) of this subsection, demonstrates
18 that:

19 (a) the facility in which the charter
20 school is housed meets the statewide adequacy standards
21 developed pursuant to the Public School Capital Outlay Act
22 and the owner of the facility is contractually obligated to
23 maintain those standards at no additional cost to the charter
24 school or the state; and

25 (b) either: 1) public buildings are

1 not available or adequate for the educational program of the
2 charter school; or 2) the owner of the facility is a
3 nonprofit entity specifically organized for the purpose of
4 providing the facility for the charter school.

5 D. The public school capital outlay council:

6 (1) shall determine whether facilities of a
7 charter school meet the educational occupancy standards
8 pursuant to the requirements of Subsection A of this section;

9 (2) shall determine whether facilities of a
10 charter school meet the requirements of Subsections B and C
11 of this section; and

12 (3) upon a determination that specific
13 requirements are not appropriate or reasonable for a charter
14 school, may grant a variance from those requirements for that
15 charter school."

16 Section 3. Section 22-15A-9 NMSA 1978 (being Laws 1994,
17 Chapter 96, Section 9, as amended) is amended to read:

18 "22-15A-9. EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.--

19 A. Upon annual review and approval of a school
20 district's educational technology plan, the bureau shall
21 determine a separate distribution from the educational
22 technology fund for each school district.

23 B. On or before July 31 of each year, the bureau
24 shall distribute money in the educational technology fund
25 directly to each school district in an amount equal to ninety

1 percent of the school district's estimated adjusted
2 entitlement calculated pursuant to Subsection C of this
3 section. A school district's unadjusted entitlement is that
4 portion of the total amount of the annual appropriation that
5 the projected membership bears to the projected membership of
6 the state. Kindergarten membership shall be calculated on a
7 one-half full-time-equivalent basis.

8 C. A school district's estimated adjusted
9 entitlement shall be calculated by the bureau using the
10 following procedure:

11 (1) a base allocation is calculated by
12 multiplying the total annual appropriation by seventy-five
13 thousandths percent;

14 (2) the estimated adjusted entitlement
15 amount for a school district whose unadjusted entitlement is
16 at or below the base allocation shall be equal to the base
17 allocation. For a school district whose unadjusted
18 entitlement is higher than the base allocation, the estimated
19 adjusted entitlement shall be calculated pursuant to
20 Paragraphs (3) through (6) of this subsection;

21 (3) the total projected membership in those
22 school districts that will receive the base allocation
23 pursuant to Paragraph (2) of this subsection is subtracted
24 from the total projected state membership;

25 (4) the total of the estimated adjusted

1 entitlement amounts that will be distributed to those school
2 districts receiving the base allocation pursuant to Paragraph
3 (2) of this subsection is subtracted from the total
4 appropriation;

5 (5) the projected membership for the
6 district is divided by the result calculated pursuant to
7 Paragraph (3) of this subsection; and

8 (6) the estimated adjusted entitlement
9 amount for the school district equals the number calculated
10 pursuant to Paragraph (5) of this subsection multiplied by
11 the value calculated pursuant to Paragraph (4) of this
12 subsection.

13 D. On or before January 30 of each year, the
14 bureau shall recompute each adjusted entitlement using the
15 final funded membership for that year and, without making any
16 additional reductions, shall allocate the balance of the
17 annual appropriation adjusting for any over- or
18 under-projection of membership.

19 E. A school district receiving funding pursuant to
20 the Technology for Education Act is responsible for the
21 purchase, distribution, use and maintenance of educational
22 technology.

23 F. As used in this section, "membership" means the
24 total enrollment of qualified students, as defined in the
25 Public School Finance Act, on the current roll of class or

1 school on a specified day. The current roll is established
2 by the addition of original entries and reentries minus
3 withdrawals. Withdrawal of students, in addition to students
4 formally withdrawn from the public school, includes students
5 absent from the public school for as many as ten consecutive
6 school days."

7 Section 4. Section 22-20-1 NMSA 1978 (being Laws 1967,
8 Chapter 16, Section 270, as amended) is amended to read:

9 "22-20-1. SCHOOL CONSTRUCTION--APPROVAL OF THE PUBLIC
10 SCHOOL FACILITIES AUTHORITY--COMPLIANCE WITH STATEWIDE
11 ADEQUACY STANDARDS--STATE CONSTRUCTION AND FIRE STANDARDS
12 APPLICABLE.--

13 A. Each local school board shall secure the
14 approval of the director of the public school facilities
15 authority or the director's designee prior to the
16 construction or letting of contracts for construction of any
17 school building or related school structure or before
18 reopening an existing structure that was formerly used as a
19 school building but that has not been used for that purpose
20 during the previous year. A written application shall be
21 submitted to the director requesting approval of the
22 construction, and, upon receipt, the director shall forward a
23 copy of the application to the secretary. The director shall
24 prescribe the form of the application, which shall include
25 the following:

- 1 (1) a statement of need;
- 2 (2) the anticipated number of students
3 affected by the construction;
- 4 (3) the estimated cost;
- 5 (4) a description of the proposed
6 construction project;
- 7 (5) a map of the area showing existing
8 school attendance centers within a five-mile radius and any
9 obstructions to attending the attendance centers, such as
10 railroad tracks, rivers and limited-access highways; and
- 11 (6) such other information as may be
12 required by the director.

13 B. The director or the director's designee shall
14 give approval to an application if the director or designee
15 reasonably determines that:

- 16 (1) the construction will not cause an
17 unnecessary proliferation of school construction;
- 18 (2) the construction is needed in the school
19 district;
- 20 (3) the construction is feasible;
- 21 (4) the cost of the construction is
22 reasonable;
- 23 (5) the construction project:
 - 24 (a) is in compliance with the statewide
25 adequacy standards adopted pursuant to the Public School

1 Capital Outlay Act; and

2 (b) if relevant, is appropriately
3 integrated into the school district master plan;

4 (6) the school district is financially able
5 to pay for the construction; and

6 (7) the secretary has certified that the
7 construction will support the educational program of the
8 school district.

9 C. Within thirty days after the receipt of an
10 application filed pursuant to this section, the director or
11 the director's designee shall in writing notify the local
12 school board making the application and the department of
13 approval or disapproval of the application.

14 D. A local school board shall not enter into a
15 contract for the construction of a public school facility,
16 including contracts funded with insurance proceeds, unless
17 the contract contains provisions requiring the construction
18 to be in compliance with the statewide adequacy standards
19 adopted pursuant to the Public School Capital Outlay Act,
20 provided that, for a contract funded in whole or in part with
21 insurance proceeds:

22 (1) the cost of settlement of any insurance
23 claim shall not be increased by inclusion of the insurance
24 proceeds in the construction contract; and

25 (2) insurance claims settlements shall

1 continue to be governed by insurance policies, memoranda of
2 coverage and rules related to them.

3 E. Public school facilities shall be constructed
4 pursuant to state standards or codes promulgated pursuant to
5 the Construction Industries Licensing Act and rules adopted
6 pursuant to Section 59A-52-15 NMSA 1978 for the prevention
7 and control of fires in public occupancies. Building
8 standards or codes adopted by a municipality or county do not
9 apply to the construction of public school facilities, except
10 those structures constructed as a part of an educational
11 program of a school district.

12 F. The provisions of Subsection E of this section
13 relating to fire protection shall not be effective until the
14 public regulation commission has adopted the International
15 Fire Code and all standards related to that code.

16 G. As used in this section, "construction" means
17 any project for which the construction industries division of
18 the regulation and licensing department requires permitting."

19 Section 5. Section 22-24-4 NMSA 1978 (being Laws 1975,
20 Chapter 235, Section 4, as amended) is amended to read:

21 "22-24-4. FUND CREATED--USE.--

22 A. There is created the "public school capital
23 outlay fund". Balances remaining in the fund at the end of
24 each fiscal year shall not revert.

25 B. Except as provided in Subsections G through K

1 of this section, money in the fund may be used only for
2 capital expenditures deemed by the council necessary for an
3 adequate educational program.

4 C. The council may authorize the purchase by the
5 public school facilities authority of portable classrooms to
6 be loaned to school districts to meet a temporary
7 requirement. Payment for these purchases shall be made from
8 the fund. Title and custody to the portable classrooms shall
9 rest in the public school facilities authority. The council
10 shall authorize the lending of the portable classrooms to
11 school districts upon request and upon finding that
12 sufficient need exists. Application for use or return of
13 state-owned portable classroom buildings shall be submitted
14 by school districts to the council. Expenses of maintenance
15 of the portable classrooms while in the custody of the public
16 school facilities authority shall be paid from the fund;
17 expenses of maintenance and insurance of the portable
18 classrooms while in the custody of a school district shall be
19 the responsibility of the school district. The council may
20 authorize the permanent disposition of the portable
21 classrooms by the public school facilities authority with
22 prior approval of the state board of finance.

23 D. Applications for assistance from the fund shall
24 be made by school districts to the council in accordance with
25 requirements of the council. The council shall require as a

1 condition of application that a school district have a
2 current five-year facilities plan, which shall include a
3 current preventive maintenance plan to which the school
4 adheres for each public school in the school district.

5 E. The council shall review all requests for
6 assistance from the fund and shall allocate funds only for
7 those capital outlay projects that meet the criteria of the
8 Public School Capital Outlay Act.

9 F. Money in the fund shall be disbursed by warrant
10 of the department of finance and administration on vouchers
11 signed by the secretary of finance and administration
12 following certification by the council that an application
13 has been approved or an expenditure has been ordered by a
14 court pursuant to Section 22-24-5.4 NMSA 1978. At the
15 discretion of the council, money for a project shall be
16 distributed as follows:

17 (1) up to ten percent of the portion of the
18 project cost funded with distributions from the fund or five
19 percent of the total project cost, whichever is greater, may
20 be paid to the school district before work commences with the
21 balance of the grant award made on a cost-reimbursement
22 basis; or

23 (2) the council may authorize payments
24 directly to the contractor.

25 G. Balances in the fund may be annually

1 appropriated for the core administrative functions of the
2 public school facilities authority pursuant to the Public
3 School Capital Outlay Act and, in addition, balances in the
4 fund may be expended by the public school facilities
5 authority, upon approval of the council, for project
6 management expenses; provided that:

7 (1) the total annual expenditures from the
8 fund pursuant to this subsection shall not exceed five
9 percent of the average annual grant assistance authorized
10 from the fund during the three previous fiscal years; and

11 (2) any unexpended or unencumbered balance
12 remaining at the end of a fiscal year from the expenditures
13 authorized in this subsection shall revert to the fund.

14 H. Up to one million two hundred fifty thousand
15 dollars (\$1,250,000) of the balances of the fund may be
16 expended in fiscal years 2003 and 2004 by the council for the
17 purpose of updating and refining the statewide assessment
18 study required by Section 22-24-5 NMSA 1978 and for the
19 training of state and local officials on the use of the
20 database and other data-management-related issues identified
21 by the council.

22 I. Up to thirty million dollars (\$30,000,000) of
23 the fund may be allocated annually by the council in fiscal
24 years 2006 and 2007 for a roof repair and replacement
25 initiative with projects to be identified by the council

1 pursuant to Section 22-24-4.3 NMSA 1978; provided that all
2 money allocated pursuant to this subsection shall be expended
3 prior to September 1, 2008.

4 J. Up to four million dollars (\$4,000,000) from
5 the fund may be expended annually by the council in fiscal
6 years 2005 through 2009 for grants to school districts for
7 the purpose of making lease payments for classroom
8 facilities, including facilities leased by charter schools.
9 The grants shall be made upon application by the school
10 districts and pursuant to rules adopted by the council,
11 provided that, an application on behalf of a charter school
12 shall be made by the school district but, if the school
13 district fails to make an application on behalf of a charter
14 school, the charter school may submit its own application.
15 The following criteria shall apply to the grants:

16 (1) the amount of a grant to a school
17 district shall not exceed:

18 (a) the actual annual lease payments
19 owed for leasing classroom space for schools, including
20 charter schools, in the district; or

21 (b) three hundred dollars (\$300) for
22 fiscal year 2005 and six hundred dollars (\$600) for fiscal
23 years 2006 through 2009 multiplied by the number of MEM using
24 the leased classroom facilities; provided that, if the total
25 grants awarded pursuant to this paragraph would exceed the

1 total annual amount available, the rate specified in this
2 subparagraph shall be reduced proportionately;

3 (2) a grant received for the lease payments
4 of a charter school may be used by that charter school as a
5 state match necessary to obtain federal grants pursuant to
6 the federal No Child Left Behind Act of 2001;

7 (3) at the end of each fiscal year, any
8 unexpended or unencumbered balance of the appropriation shall
9 revert to the fund; and

10 (4) as used in this subsection, "MEM" means:

11 (a) the average full-time-equivalent
12 enrollment using leased classroom facilities on the fortieth,
13 eightieth and one hundred twentieth days of the prior school
14 year; or

15 (b) in the case of an approved charter
16 school that has not commenced classroom instruction, the
17 estimated full-time-equivalent enrollment that will use
18 leased classroom facilities in the first year of instruction,
19 as shown in the approved charter school application, provided
20 that, after the fortieth day of the school year, the MEM
21 shall be adjusted to reflect the full-time-equivalent
22 enrollment on that date.

23 K. In addition to other authorized expenditures
24 from the fund, up to one percent of the average grant
25 assistance authorized from the fund during the three previous

1 fiscal years may be expended in each fiscal year by the
2 public school facilities authority to reimburse the state
3 fire marshal, the construction industries division of the
4 regulation and licensing department and local jurisdictions
5 having authority from the state to permit and inspect
6 projects for expenditures made to permit and inspect projects
7 funded in whole or in part under the Public School Capital
8 Outlay Act. The authority shall enter into contracts with
9 the state fire marshal, the construction industries division
10 or the appropriate local authorities to carry out the
11 provisions of this subsection."

12 Section 6. A new section of the Public School Capital
13 Outlay Act, Section 22-24-4.3 NMSA 1978, is enacted to read:

14 "22-24-4.3. ROOF REPAIR AND REPLACEMENT INITIATIVE.--

15 A. The council shall develop guidelines for a roof
16 repair and replacement initiative pursuant to the provisions
17 of this section.

18 B. A school district, desiring a grant award
19 pursuant to this section, shall submit an application to the
20 council. The application shall include an assessment of the
21 roofs on district school buildings that, in the opinion of
22 the school district, create a threat of significant property
23 damage.

24 C. The public school facilities authority shall
25 verify the assessment made by the school district and rank

1 the application with similar applications pursuant to a
2 methodology adopted by the council.

3 D. After a public hearing and to the extent that
4 money is available in the fund for such purposes, the council
5 shall approve roof repair or replacement projects on the
6 established priority basis; provided that no project shall be
7 approved unless the council determines that the school
8 district is willing and able to pay the portion of the total
9 cost of the project that is not funded with grant assistance
10 from the fund. In order to pay its portion of the total
11 project cost, a school district may use state distributions
12 made to the school district pursuant to the Public School
13 Capital Improvements Act or, if within the scope of the
14 authorizing resolution, proceeds of the property tax imposed
15 pursuant to that act.

16 E. The state share of the cost of an approved
17 project shall be calculated pursuant to the methodology in
18 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978.

19 F. A grant made pursuant to this section shall be
20 expended by the school district prior to September 1, 2008."

21 Section 7. A new section of the Public School Capital
22 Outlay Act, Section 22-24-4.4 NMSA 1978, is enacted to read:

23 "22-24-4.4. SERIOUS ROOF DEFICIENCIES--CORRECTION.--

24 A. To complete the program to correct outstanding
25 deficiencies, those serious deficiencies in the roofs of

1 public school facilities identified pursuant to Section
2 22-24-4.1 NMSA 1978 as adversely affecting the health or
3 safety of students and school personnel shall be corrected
4 pursuant to this section, regardless of the local effort or
5 percentage of indebtedness of the school district, subject to
6 the following provisions:

7 (1) if the council determines that the
8 school district has excess capital improvement funds received
9 pursuant to the Public School Capital Improvements Act, the
10 cost of correcting the deficiencies shall first come from the
11 school district's excess funds, and if the excess funds are
12 insufficient to correct the deficiencies, the difference
13 shall be paid from the public school capital outlay fund; and

14 (2) if the school district refuses to pay
15 its share of the cost of correcting deficiencies as
16 determined pursuant to Paragraph (1) of this subsection,
17 future distributions from the public school capital
18 improvements fund pursuant to Section 22-25-9 NMSA 1978 shall
19 not be made to the school district but shall be made to the
20 public school capital outlay fund until the public school
21 capital outlay fund is reimbursed in full for the school
22 district's share.

23 B. It is the intent of the legislature that all
24 awards for correcting outstanding deficiencies in public
25 school roofs that may adversely affect the health and safety

1 of students and school personnel be made pursuant to this
2 section no later than September 30, 2005 and that funds be
3 expended no later than September 30, 2007."

4 Section 8. Section 22-24-5 NMSA 1978 (being Laws 1975,
5 Chapter 235, Section 5, as amended) is amended to read:

6 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
7 APPLICATION--GRANT ASSISTANCE.--

8 A. Applications for grant assistance, the approval
9 of applications, the prioritization of projects and grant
10 awards shall be conducted pursuant to the provisions of this
11 section; provided, however, that the order of priority in the
12 two years beginning July 1, 2004 shall first reflect those
13 specific projects that were partially funded by the council
14 in September 2003 but are not as yet completed, excluding any
15 expansion of the scope of those projects and contingent upon
16 maintenance of the required local support. In that
17 transition period, such projects shall be funded regardless
18 of any deviation from the statewide adequacy standards;
19 provided that the amount of the award received shall not
20 exceed the amount necessary to meet the statewide adequacy
21 standards, including projected enrollment growth.

22 B. Except as provided in Subsection A of this
23 section and in Sections 22-24-4.3 and 22-24-5.4 NMSA 1978,
24 the following provisions govern grant assistance from the
25 fund for a public school capital outlay project not wholly

1 funded pursuant to Section 22-24-4.1 NMSA 1978:

2 (1) all school districts are eligible to
3 apply for funding from the fund, regardless of percentage of
4 indebtedness;

5 (2) priorities for funding shall be
6 determined by using the statewide adequacy standards
7 developed pursuant to Subsection C of this section; provided
8 that:

9 (a) the council shall apply the
10 standards to charter schools to the same extent that they are
11 applied to other public schools; and

12 (b) in an emergency in which the health
13 or safety of students or school personnel is at immediate
14 risk or in which there is a threat of significant property
15 damage, the council may award grant assistance for a project
16 using criteria other than the statewide adequacy standards;

17 (3) the council shall establish criteria to
18 be used in public school capital outlay projects that receive
19 grant assistance pursuant to the Public School Capital Outlay
20 Act. In establishing the criteria, the council shall
21 consider:

22 (a) the feasibility of using design,
23 build and finance arrangements for public school capital
24 outlay projects;

25 (b) the potential use of more durable

1 construction materials that may reduce long-term operating
2 costs; and

3 (c) any other financing or construction
4 concept that may maximize the dollar effect of the state
5 grant assistance;

6 (4) no more than ten percent of the combined
7 total of grants in a funding cycle shall be used for
8 retrofitting existing facilities for technology
9 infrastructure;

10 (5) except as provided in Paragraph (6) or
11 (8) of this subsection, the state share of a project approved
12 and ranked by the council shall be funded within available
13 resources pursuant to the provisions of this paragraph. No
14 later than May 1 of each calendar year, a value shall be
15 calculated for each school district in accordance with the
16 following procedure:

17 (a) the final prior year net taxable
18 value for a school district divided by the MEM for that
19 school district is calculated for each school district;

20 (b) the final prior year net taxable
21 value for the whole state divided by the MEM for the state is
22 calculated;

23 (c) excluding any school district for
24 which the result calculated pursuant to Subparagraph (a) of
25 this paragraph is more than twice the result calculated

1 pursuant to Subparagraph (b) of this paragraph, the results
2 calculated pursuant to Subparagraph (a) of this paragraph are
3 listed from highest to lowest;

4 (d) the lowest value listed pursuant to
5 Subparagraph (c) of this paragraph is subtracted from the
6 highest value listed pursuant to that subparagraph;

7 (e) the value calculated pursuant to
8 Subparagraph (a) of this paragraph for the subject school
9 district is subtracted from the highest value listed in
10 Subparagraph (c) of this paragraph;

11 (f) the result calculated pursuant to
12 Subparagraph (e) of this paragraph is divided by the result
13 calculated pursuant to Subparagraph (d) of this paragraph;

14 (g) the sum of the property tax mill
15 levies for the prior tax year imposed by each school district
16 on residential property pursuant to Chapter 22, Article 18
17 NMSA 1978, the Public School Capital Improvements Act, the
18 Public School Buildings Act, the Education Technology
19 Equipment Act and Paragraph (2) of Subsection B of Section
20 7-37-7 NMSA 1978 is calculated for each school district;

21 (h) the lowest value calculated
22 pursuant to Subparagraph (g) of this paragraph is subtracted
23 from the highest value calculated pursuant to that
24 subparagraph;

25 (i) the lowest value calculated

1 pursuant to Subparagraph (g) of this paragraph is subtracted
2 from the value calculated pursuant to that subparagraph for
3 the subject school district;

4 (j) the value calculated pursuant to
5 Subparagraph (i) of this paragraph is divided by the value
6 calculated pursuant to Subparagraph (h) of this paragraph;

7 (k) if the value calculated for a
8 subject school district pursuant to Subparagraph (j) of this
9 paragraph is less than five-tenths, then, except as provided
10 in Subparagraph (n) or (o) of this paragraph, the value for
11 that school district equals the value calculated pursuant to
12 Subparagraph (f) of this paragraph;

13 (l) if the value calculated for a
14 subject school district pursuant to Subparagraph (j) of this
15 paragraph is five-tenths or greater, then that value is
16 multiplied by five-hundredths;

17 (m) if the value calculated for a
18 subject school district pursuant to Subparagraph (j) of this
19 paragraph is five-tenths or greater, then the value
20 calculated pursuant to Subparagraph (l) of this paragraph is
21 added to the value calculated pursuant to Subparagraph (f) of
22 this paragraph. Except as provided in Subparagraph (n) or
23 (o) of this paragraph, the sum equals the value for that
24 school district;

25 (n) in those instances in which the

1 calculation pursuant to Subparagraph (k) or (m) of this
2 paragraph yields a value less than one-tenth, one-tenth shall
3 be used as the value for the subject school district;

4 (o) in those instances in which the
5 calculation pursuant to Subparagraph (k) or (m) of this
6 paragraph yields a value greater than one, one shall be used
7 as the value for the subject school district;

8 (p) except as reduced pursuant to
9 Paragraph (6) of this subsection, the amount to be
10 distributed from the fund for an approved project: 1) in
11 calendar year 2005, shall equal the total project cost
12 multiplied by a fraction the numerator of which is the value
13 calculated for the subject school district in 2005 plus the
14 value calculated for that district in 2004 and the
15 denominator of which is two; and 2) in calendar year 2006 and
16 each subsequent calendar year, shall equal the total project
17 cost multiplied by a fraction the numerator of which is the
18 value calculated for the subject school district in the
19 current year plus the value calculated for that school
20 district in each of the two preceding years and the
21 denominator of which is three; and

22 (q) as used in this paragraph:
23 1) "MEM" means the average full-time-equivalent enrollment of
24 students attending public school in a school district on the
25 fortieth, eightieth and one hundred twentieth days of the

1 prior school year; and 2) "total project cost" means the
2 total amount necessary to complete the public school capital
3 outlay project less any insurance reimbursement received by
4 the school district for the project;

5 (6) the amount calculated pursuant to
6 Subparagraph (p) of Paragraph (5) of this subsection shall be
7 reduced by the following procedure:

8 (a) the total of all legislative
9 appropriations made after January 1, 2003 for nonoperating
10 purposes either directly to the subject school district or to
11 another governmental entity for the purpose of passing the
12 money through directly to the subject school district, and
13 not rejected by the subject school district, but excluding
14 educational technology appropriations made prior to
15 January 1, 2005 and reauthorizations of appropriations
16 previously made to the subject school district, is
17 calculated; provided that an appropriation made in a fiscal
18 year shall be deemed to be accepted by a school district
19 unless, prior to June 1 of that fiscal year, the school
20 district notifies the department of finance and
21 administration and the public education department that the
22 district is rejecting the appropriation; provided further
23 that the total shall be increased by an amount, certified to
24 the council by the department, equal to the educational
25 technology appropriations made to the subject school district

1 on or after January 1, 2003 and prior to January 1, 2005 and
2 not previously used to offset distributions pursuant to the
3 Technology for Education Act;

4 (b) the applicable fraction used for
5 the subject school district and the current calendar year for
6 the calculation in Subparagraph (p) of Paragraph (5) of this
7 subsection is subtracted from one;

8 (c) the value calculated pursuant to
9 Subparagraph (a) of this paragraph for the subject school
10 district is multiplied by the amount calculated pursuant to
11 Subparagraph (b) of this paragraph for that school district;

12 (d) the total amount of reductions for
13 the subject school district previously made pursuant to
14 Subparagraph (e) of this paragraph for other approved public
15 school capital outlay projects is subtracted from the amount
16 calculated pursuant to Subparagraph (c) of this paragraph;
17 and

18 (e) the amount calculated pursuant to
19 Subparagraph (p) of Paragraph (5) of this subsection shall be
20 reduced by the amount calculated pursuant to Subparagraph (d)
21 of this paragraph;

22 (7) as used in Paragraphs (5) and (6) of
23 this subsection, "subject school district" means the school
24 district that has submitted the application for funding and
25 in which the approved public school capital outlay project

1 will be located;

2 (8) the council may adjust the amount of
3 local share otherwise required if it determines that a school
4 district has used all of its local resources. Before making
5 any adjustment to the local share, the council shall consider
6 whether:

7 (a) the school district has
8 insufficient bonding capacity over the next four years to
9 provide the local match necessary to complete the project
10 and, for all educational purposes, has a residential
11 property tax rate of at least ten dollars (\$10.00) on each
12 one thousand dollars (\$1,000) of taxable value, as measured
13 by the sum of all rates imposed by resolution of the local
14 school board plus rates set to pay interest and principal on
15 outstanding school district general obligation bonds;

16 (b) the school district: 1) has fewer
17 than an average of eight hundred full-time-equivalent
18 students on the fortieth, eightieth and one hundred twentieth
19 days of the prior school year; 2) has at least seventy
20 percent of its students eligible for free or reduced fee
21 lunch; 3) has a share of the total project cost, as
22 calculated pursuant to provisions of this section, that would
23 be greater than fifty percent; and 4) for all educational
24 purposes, has a residential property tax rate of at least
25 seven dollars (\$7.00) on each one thousand dollars (\$1,000)

1 of taxable value, as measured by the sum of all rates imposed
2 by resolution of the local school board plus rates set to pay
3 interest and principal on outstanding school district general
4 obligation bonds; or

5 (c) the school district has: 1) an
6 enrollment growth rate over the previous school year of at
7 least two and one-half percent; 2) pursuant to its five-year
8 facilities plan, will be building a new school within the
9 next two years; and 3) for all educational purposes, has a
10 residential property tax rate of at least ten dollars
11 (\$10.00) on each one thousand dollars (\$1,000) of taxable
12 value, as measured by the sum of all rates imposed by
13 resolution of the local school board plus rates set to pay
14 interest and principal on outstanding school district general
15 obligation bonds; and

16 (9) no application for grant assistance from
17 the fund shall be approved unless the council determines
18 that:

19 (a) the public school capital outlay
20 project is needed and included in the school district's
21 five-year facilities plan among its top priorities;

22 (b) the school district has used its
23 capital resources in a prudent manner;

24 (c) the school district has provided
25 insurance for buildings of the school district in accordance

1 with the provisions of Section 13-5-3 NMSA 1978;

2 (d) the school district has submitted a
3 five-year facilities plan that includes: 1) enrollment
4 projections; 2) a current preventive maintenance plan that
5 has been approved by the council pursuant to Section
6 22-24-5.3 NMSA 1978 and that is followed by each public
7 school in the district; 3) the capital needs of charter
8 schools located in the school district; and 4) projections
9 for the facilities needed in order to maintain a full-day
10 kindergarten program;

11 (e) the school district is willing and
12 able to pay any portion of the total cost of the public
13 school capital outlay project that, according to Paragraph
14 (5), (6) or (8) of this subsection, is not funded with grant
15 assistance from the fund; provided that school district funds
16 used for a project that was initiated after September 1, 2002
17 when the statewide adequacy standards were adopted, but
18 before September 1, 2004 when the standards were first used
19 as the basis for determining the state and school district
20 share of a project, may be applied to the school district
21 portion required for that project;

22 (f) the application includes the
23 capital needs of any charter school located in the school
24 district or the school district has shown that the facilities
25 of the charter school has a smaller deviation from the

1 statewide adequacy standards than other district facilities
2 included in the application; and

3 (g) the school district has agreed, in
4 writing, to comply with any reporting requirements or
5 conditions imposed by the council pursuant to Section
6 22-24-5.1 NMSA 1978.

7 C. After consulting with the public school capital
8 outlay task force and other experts, the council shall
9 regularly review and update statewide adequacy standards
10 applicable to all school districts. The standards shall
11 establish the acceptable level for the physical condition and
12 capacity of buildings, the educational suitability of
13 facilities and the need for technological infrastructure.
14 Except as otherwise provided in the Public School Capital
15 Outlay Act, the amount of outstanding deviation from the
16 standards shall be used by the council in evaluating and
17 prioritizing public school capital outlay projects.

18 D. It is the intent of the legislature that grant
19 assistance made pursuant to this section allows every school
20 district to meet the standards developed pursuant to
21 Subsection C of this section; provided, however, that nothing
22 in the Public School Capital Outlay Act or the development of
23 standards pursuant to that act prohibits a school district
24 from using local funds to exceed the statewide adequacy
25 standards.

1 E. Upon request, the council shall work with, and
2 provide assistance and information to, the public school
3 capital outlay oversight task force.

4 F. The council may establish committees or task
5 forces, not necessarily consisting of council members, and
6 may use the committees or task forces, as well as existing
7 agencies or organizations, to conduct studies, conduct
8 surveys, submit recommendations or otherwise contribute
9 expertise from the public schools, programs, interest groups
10 and segments of society most concerned with a particular
11 aspect of the council's work.

12 G. Upon the recommendation of the public school
13 facilities authority, the council shall develop building
14 standards for public school facilities and shall promulgate
15 other such rules as are necessary to carry out the provisions
16 of the Public School Capital Outlay Act.

17 H. No later than December 15 of each year, the
18 council shall prepare a report summarizing its activities
19 during the previous fiscal year. The report shall describe
20 in detail all projects funded, the progress of projects
21 previously funded but not completed, the criteria used to
22 prioritize and fund projects and all other council actions.
23 The report shall be submitted to the public education
24 commission, the governor, the legislative finance committee,
25 the legislative education study committee and the

1 legislature."

2 Section 9. Section 22-24-5.3 NMSA 1978 (being Laws
3 2003, Chapter 147, Section 5) is amended to read:

4 "22-24-5.3. PREVENTIVE MAINTENANCE PLANS--GUIDELINES--
5 APPROVAL.--

6 A. The council shall adopt guidelines that will
7 assist school districts in the development and implementation
8 of preventive maintenance plans. In developing the
9 guidelines, the council shall ensure that they are not overly
10 complex, that they are user-friendly and that they take into
11 account the geographic and size variations of the districts
12 throughout the state. The guidelines shall include the major
13 requirements for:

14 (1) establishing and implementing a
15 preventive maintenance plan;

16 (2) necessary budgets, personnel and staff
17 support;

18 (3) staff training; and

19 (4) evaluation and auditing.

20 B. The council shall develop, implement and
21 maintain a uniform web-based facility information management
22 system. Within available appropriations, the council shall
23 develop a schedule and procedure for phasing all school
24 districts into the system, including those school districts
25 not applying for grant assistance pursuant to the Public

1 School Capital Outlay Act. The facility information
2 management system shall:

3 (1) provide a centralized database of
4 maintenance activities to allow for monitoring, supporting
5 and evaluating school-level and districtwide maintenance
6 efforts;

7 (2) provide comprehensive maintenance
8 request and expenditure information to the school districts
9 and the council; and

10 (3) facilitate training of facilities
11 maintenance and management personnel.

12 C. To the extent resources are available, the
13 council shall provide assistance to districts in developing
14 and implementing a preventive maintenance plan.

15 D. For project allocation cycles beginning after
16 September 1, 2003, a school district shall not be eligible
17 for funding pursuant to Section 22-24-5 NMSA 1978 unless:

18 (1) the school district has a preventive
19 maintenance plan that has been approved by the council; and

20 (2) if applicable, the school district is
21 participating in the implementation of the facility
22 information management system.

23 E. As used in this section, "preventive
24 maintenance" means the regularly scheduled repair and
25 maintenance needed to keep a building component operating at

1 peak efficiency and to extend its useful life. "Preventive
2 maintenance" includes scheduled activities intended to
3 prevent breakdowns and premature failures, including periodic
4 inspections, lubrication, calibrations and replacement of
5 expendable components of equipment."

6 Section 10. Section 22-24-7 NMSA 1978 (being Laws 2001,
7 Chapter 338, Section 12, as amended) is amended to read:

8 "22-24-7. PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK
9 FORCE--CREATION--STAFF.--

10 A. The "public school capital outlay oversight
11 task force" is created. The task force consists of
12 twenty-four members as follows:

13 (1) the secretary of finance and
14 administration or the secretary's designee;

15 (2) the secretary of public education or the
16 secretary's designee;

17 (3) the state investment officer or the
18 state investment officer's designee;

19 (4) the speaker of the house of
20 representatives or the speaker's designee;

21 (5) the president pro tempore of the senate
22 or the president pro tempore's designee;

23 (6) the chairmen of the house appropriations
24 and finance committee, the senate finance committee, the
25 senate education committee and the house education committee

1 or their designees;

2 (7) two minority party members of the house
3 of representatives, appointed by the New Mexico legislative
4 council;

5 (8) two minority party members of the
6 senate, appointed by the New Mexico legislative council;

7 (9) a member of the interim legislative
8 committee charged with the oversight of Indian affairs,
9 appointed by the New Mexico legislative council, provided
10 that the member shall rotate annually between a senate member
11 and a member of the house of representatives;

12 (10) two public members who have expertise
13 in education and finance appointed by the speaker of the
14 house of representatives;

15 (11) two public members who have expertise
16 in education and finance appointed by the president pro
17 tempore of the senate;

18 (12) three public members, two of whom are
19 residents of school districts that receive grants from the
20 federal government as assistance to areas affected by federal
21 activity authorized in accordance with Title 20 of the United
22 States Code, appointed by the governor; and

23 (13) three superintendents of school
24 districts or their designees, two of whom are from school
25 districts that receive grants from the federal government as

1 assistance to areas affected by federal activity authorized
2 in accordance with Title 20 of the United States Code,
3 appointed by the New Mexico legislative council in
4 consultation with the governor.

5 B. The chair of the public school capital outlay
6 oversight task force shall be elected by the task force. The
7 task force shall meet at the call of the chair, but no more
8 than four times per calendar year.

9 C. Non-ex-officio members of the task force shall
10 serve at the pleasure of their appointing authorities.

11 D. The public members of the public school capital
12 outlay oversight task force shall receive per diem and
13 mileage pursuant to the Per Diem and Mileage Act.

14 E. The legislative council service, with
15 assistance from the public school facilities authority, the
16 department of finance and administration, the public
17 education department, the legislative education study
18 committee and the legislative finance committee, shall
19 provide staff for the public school capital outlay oversight
20 task force."

21 Section 11. Section 22-24-8 NMSA 1978 (being Laws 2001,
22 Chapter 338, Section 13, as amended) is amended to read:

23 "22-24-8. PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK
24 FORCE--DUTIES.--The public school capital outlay oversight
25 task force shall:

1 A. monitor the overall progress of bringing all
2 public schools up to the statewide adequacy standards
3 developed pursuant to the Public School Capital Outlay Act;

4 B. monitor the progress and effectiveness of
5 programs administered pursuant to the Public School Capital
6 Outlay Act and the Public School Capital Improvements Act;

7 C. monitor the existing permanent revenue streams
8 to ensure that they remain adequate long-term funding sources
9 for public school capital outlay projects;

10 D. oversee the work of the public school capital
11 outlay council and the public school facilities authority as
12 they perform functions pursuant to the Public School Capital
13 Outlay Act, particularly as they implement the
14 statewide-based process for making grant awards;

15 E. appoint an advisory committee to study the
16 feasibility of implementing a long-range planning process
17 that will facilitate the interaction between charter schools
18 and their school districts on issues relating to facility
19 needs; and

20 F. before the beginning of each regular session of
21 the legislature, report the results of its analyses and
22 oversight and any recommendations to the governor and the
23 legislature."

24 Section 12. Section 22-24-9 NMSA 1978 (being Laws 2003,
25 Chapter 147, Section 1, as amended) is amended to read:

1 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--
2 CREATION--POWERS AND DUTIES.--

3 A. The "public school facilities authority" is
4 created under the council. The authority shall be headed by
5 a director, selected by the council, who shall be versed in
6 construction, architecture or project management. The
7 director may hire no more than two deputies with the approval
8 of the council, and, subject to budgetary constraints set out
9 in Subsection G of Section 22-24-4 NMSA 1978, shall employ or
10 contract with such technical and administrative personnel as
11 are necessary to carry out the provisions of this section.
12 The director and deputies shall be exempt from the provisions
13 of the Personnel Act; after July 1, 2006, all other employees
14 of the authority shall be subject to the provisions of the
15 Personnel Act.

16 B. The authority shall:

- 17 (1) serve as staff to the council;
- 18 (2) as directed by the council, provide
19 those assistance and oversight functions required of the
20 council by Section 22-24-5.1 NMSA 1978;
- 21 (3) assist school districts with:
- 22 (a) the development and implementation
23 of five-year facilities plans and preventive maintenance
24 plans;
- 25 (b) procurement of architectural and

1 engineering services;

2 (c) management and oversight of
3 construction activities; and

4 (d) training programs;

5 (4) conduct ongoing reviews of five-year
6 facilities plans, preventive maintenance plans and
7 performance pursuant to those plans;

8 (5) as directed by the council, assist
9 school districts in analyzing and assessing their space
10 utilization options;

11 (6) ensure that public school capital outlay
12 projects are in compliance with applicable building codes;

13 (7) conduct on-site inspections as necessary
14 to ensure that the construction specifications are being met
15 and periodically inspect all of the documents related to
16 projects;

17 (8) require the use of standardized
18 construction documents and the use of a standardized process
19 for change orders;

20 (9) have access to the premises of a project
21 and any documentation relating to the project;

22 (10) after consulting with the department,
23 recommend building standards for public school facilities to
24 the council and ensure compliance with building standards
25 adopted by the council;

1 (11) notwithstanding the provisions of
2 Subsection D of Section 22-24-6 NMSA 1978, account for all
3 distributions of grant assistance from the fund for which the
4 initial award was made after July 1, 2004, and make annual
5 reports to the department, the governor, the legislative
6 education study committee, the legislative finance committee
7 and the legislature;

8 (12) maintain a database of the condition of
9 school facilities and maintenance schedules; and

10 (13) ensure that outstanding deficiencies
11 are corrected pursuant to Section 22-24-4.1 NMSA 1978. In
12 the performance of this duty, the authority:

13 (a) shall work with school districts to
14 validate the assessment of the outstanding deficiencies and
15 the projected costs to correct the deficiencies;

16 (b) shall work with school districts to
17 provide direct oversight of the management and construction
18 of the projects that will correct the outstanding
19 deficiencies;

20 (c) shall oversee all aspects of the
21 contracts entered into by the council to correct the
22 outstanding deficiencies;

23 (d) may conduct on-site inspections
24 while the deficiencies correction work is being done to
25 ensure that the construction specifications are being met and

1 may periodically inspect all of the documents relating to the
2 projects;

3 (e) may require the use of standardized
4 construction documents and the use of a standardized process
5 for change orders;

6 (f) may access the premises of a
7 project and any documentation relating to the project; and

8 (g) shall maintain, track and account
9 for deficiency correction projects separately from other
10 capital outlay projects funded pursuant to the Public School
11 Capital Outlay Act.

12 C. All actions taken by the authority shall be
13 consistent with educational programs conducted pursuant to
14 the Public School Code. In the event of any potential or
15 perceived conflict between a proposed action of the authority
16 and an educational program, the authority shall consult with
17 the secretary.

18 D. A school district, aggrieved by a decision or
19 recommendation of the authority, may appeal the matter to the
20 council by filing a notice of appeal with the council within
21 thirty days of the authority's decision or recommendation.

22 Upon filing of the notice:

23 (1) the decision or recommendation of the
24 authority shall be suspended until the matter is decided by
25 the council;

1 (2) the council shall hear the matter at its
2 next regularly scheduled hearing or at a special hearing
3 called by the chair for that purpose;

4 (3) at the hearing, the school district, the
5 authority and other interested parties may make informal
6 presentations to the council; and

7 (4) the council shall finally decide the
8 matter within ten days after the hearing."

9 Section 13. A new section of the Public School Capital
10 Outlay Act is enacted to read:

11 "PUBLIC FACILITIES TO BE USED BY CHARTER SCHOOLS--
12 ASSESSMENT.--

13 A. Prior to the occupancy of a public facility by
14 a charter school, the charter school shall notify the council
15 of the intended use, together with such other information as
16 required by rule of the council.

17 B. Within sixty days of the notification to the
18 council, the public school facilities authority shall assess
19 the public facility in order to determine the extent of
20 compliance with the statewide adequacy standards and the
21 amount of outstanding deviation from those standards. The
22 results of the assessment shall be submitted to the charter
23 school, the school district in which the charter school is
24 located and the council.

25 C. Once assessed pursuant to Subsection B of this

1 section, the public facility shall be prioritized and
2 eligible for grants pursuant to the Public School Capital
3 Outlay Act in the same manner as all other public schools in
4 the state.

5 D. As used in this section, "public facility"
6 means a building owned by the charter school, the school
7 district, the state, an institution of the state, another
8 political subdivision of the state, the federal government or
9 a tribal government."

10 Section 14. Section 22-18-1 NMSA 1978 (being Laws 1967,
11 Chapter 16, Section 228, as amended) is amended to read:

12 "22-18-1. GENERAL OBLIGATION BONDS--AUTHORITY TO
13 ISSUE.-- After consideration of the priorities for the school
14 district's capital needs as shown by the facility assessment
15 database maintained by the public school facilities authority
16 and subject to the provisions of Article 9, Section 11 of the
17 constitution of New Mexico and Sections 6-15-1 and 6-15-2
18 NMSA 1978, a school district may issue general obligation
19 bonds for the purpose of erecting, remodeling, making
20 additions to and furnishing school buildings, purchasing or
21 improving school grounds, purchasing computer software and
22 hardware for student use in public schools, providing
23 matching funds for capital outlay projects funded pursuant to
24 the Public School Capital Outlay Act or any combination of
25 these purposes. The bonds shall be fully negotiable and

1 constitute negotiable instruments within the meaning and for
2 all purposes of the Uniform Commercial Code."

3 Section 15. Section 22-25-9 NMSA 1978 (being Laws 1975
4 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

5 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT
6 IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

7 A. Except as provided in Subsection C or G of this
8 section, the secretary shall distribute to any school
9 district that has imposed a tax under the Public School
10 Capital Improvements Act an amount from the public school
11 capital improvements fund that is equal to the amount by
12 which the revenue estimated to be received from the imposed
13 tax, at the rate certified by the department of finance and
14 administration in accordance with Section 22-25-7 NMSA 1978,
15 assuming a one hundred percent collection rate, is less than
16 an amount calculated by multiplying the school district's
17 first forty days' total program units by the amount specified
18 in Subsection B of this section and further multiplying the
19 product obtained by the tax rate approved by the qualified
20 electors in the most recent election on the question of
21 imposing a tax under the Public School Capital Improvements
22 Act. The distribution shall be made each year that the tax
23 is imposed in accordance with Section 22-25-7 NMSA 1978;
24 provided that no state distribution from the public school
25 capital improvements fund may be used for capital

1 improvements to any administration building of a school
2 district. In the event that sufficient funds are not
3 available in the public school capital improvements fund to
4 make the state distribution provided for in this section, the
5 dollar per program unit figure shall be reduced as necessary.

6 B. In calculating the state distribution pursuant
7 to Subsection A of this section, the following amounts shall
8 be used:

9 (1) the amount calculated pursuant to
10 Subsection D of this subsection per program unit; and

11 (2) for fiscal year 2006 and thereafter, an
12 additional amount certified to the secretary by the public
13 school capital outlay council. No later than June 1, 2005
14 and each June 1 thereafter, the council shall determine the
15 amount needed in the next fiscal year for public school
16 capital outlay projects pursuant to the Public School Capital
17 Outlay Act and the amount of revenue, from all sources,
18 available for the projects. If, in the sole discretion of
19 the council, the amount available exceeds the amount needed,
20 the council may certify an additional amount pursuant to this
21 paragraph; provided that the sum of the amount calculated
22 pursuant to this paragraph plus the amount in Paragraph (1)
23 of this subsection shall not result in a total statewide
24 distribution that, in the opinion of the council, exceeds
25 one-half of the total revenue estimated to be received from

1 taxes imposed pursuant to the Public School Capital
2 Improvements Act.

3 C. For fiscal year 2004 and thereafter,
4 notwithstanding the amount calculated to be distributed
5 pursuant to Subsections A and B of this section, except as
6 provided in Subsection G of this section, a school district,
7 the voters of which have approved a tax pursuant to Section
8 22-25-3 NMSA 1978, shall not receive a distribution less than
9 the amount calculated pursuant to Subsection E of this
10 section, multiplied by the school district's first forty
11 days' total program units and further multiplying the product
12 obtained by the approved tax rate.

13 D. For purposes of calculating the distribution
14 pursuant to Subsection B of this section, the amount used in
15 Paragraph (1) of that subsection shall equal fifty dollars
16 (\$50.00) through fiscal year 2005, sixty dollars (\$60.00) in
17 fiscal year 2006 and in each subsequent fiscal year shall
18 equal the amount for the previous fiscal year adjusted by the
19 percentage increase between the next preceding calendar year
20 and the preceding calendar year of the consumer price index
21 for the United States, all items, as published by the United
22 States department of labor.

23 E. For purposes of calculating the minimum
24 distribution pursuant to Subsection C of this section, the
25 amount used in that subsection shall equal five dollars

1 (\$5.00) through fiscal year 2005 and in each subsequent
2 fiscal year shall equal the amount for the previous fiscal
3 year adjusted by the percentage increase between the next
4 preceding calendar year and the preceding calendar year of
5 the consumer price index for the United States, all items, as
6 published by the United States department of labor.

7 F. In expending distributions made pursuant to
8 this section, school districts shall give priority to
9 maintenance projects. In addition, distributions made
10 pursuant to this section may be expended by school districts
11 for the school district portion of the total project cost for
12 roof repair or replacement required by Section 22-24-4.3 NMSA
13 1978.

14 G. If a serious deficiency in a roof of a public
15 school facility has been corrected pursuant to Section
16 22-24-4.4 NMSA 1978 and the school district has refused to
17 pay its share of the cost as determined by that section,
18 until the public school capital outlay fund is reimbursed in
19 full for the share attributed to the district, the
20 distribution calculated pursuant to this section shall not be
21 made to the school district but shall be made to the public
22 school capital outlay fund.

23 H. In making distributions pursuant to this
24 section, the secretary shall include such reporting
25 requirements and conditions as are required by rule of the

1 public school capital outlay council. The council shall
2 adopt such requirements and conditions as are necessary to
3 ensure that the distributions are expended in the most
4 prudent manner possible and are consistent with the original
5 purpose as specified in the authorizing resolution. Copies
6 of reports or other information received by the secretary in
7 response to the requirements and conditions shall be
8 forwarded to the council."

9 Section 16. A new section of the Public School Code is
10 enacted to read:

11 "PREVENTIVE MAINTENANCE PLANS--PARTICIPATION IN FACILITY
12 INFORMATION MANAGEMENT SYSTEM.--Each school district shall:

13 A. develop and implement a preventive maintenance
14 plan following guidelines adopted by the public school
15 capital outlay council pursuant to Section 22-24-5.3 NMSA
16 1978; and

17 B. participate in the facility information
18 management system pursuant to the schedule adopted by the
19 public school capital outlay council."

20 Section 17. Section 22-29-1 NMSA 1978 (being Laws 1986,
21 Chapter 94, Section 1) is amended to read:

22 "22-29-1. SHORT TITLE.--Chapter 22, Article 29 NMSA
23 1978 may be cited as the "Public School Insurance Authority
24 Act"."

25 Section 18. A new section of the Public School

1 Insurance Authority Act is enacted to read:

2 "EXPENDITURE OF INSURANCE PROCEEDS FOR PUBLIC SCHOOLS.--

3 Payment for a claim under property insurance coverage for
4 property damage to public school facilities may be paid
5 directly to the school district, or, pursuant to the
6 Procurement Code, the insurance proceeds may be expended by
7 the insurer to repair the damage. If the payment is made
8 directly to the school district, without further approval of
9 the authority or any insurance carrier, the proceeds of the
10 insurance payment may be expended by the school district to
11 repair or replace the damaged facility if:

12 A. the school district complies with the
13 Procurement Code; and

14 B. contracts for the repair or replacement are
15 approved by the public school facilities authority pursuant
16 to Section 22-20-1 NMSA 1978, provided that:

17 (1) the cost of settlement of the insurance
18 claim shall not be increased by inclusion of the insurance
19 proceeds in the construction contracts; and

20 (2) insurance claims settlements shall
21 continue to be governed by insurance policies, memoranda of
22 coverage and rules related to them."

23 Section 19. APPROPRIATIONS.--

24 A. One million five hundred sixty-two thousand
25 dollars (\$1,562,000) is appropriated from the public school

1 capital outlay fund to the public school facilities authority
2 for expenditure in fiscal years 2005 through 2007 for the
3 purpose of developing and implementing a uniform, statewide
4 web-based facility information management system pursuant to
5 the provisions of Section 22-24-5.3 NMSA 1978. Any
6 unexpended or unencumbered balance remaining at the end of
7 fiscal year 2007 shall revert to the public school capital
8 outlay fund.

9 B. Two hundred eighty-four thousand four hundred
10 dollars (\$284,400) is appropriated from the public school
11 capital outlay fund to the public school capital outlay
12 council to make grants in fiscal year 2005 for the purpose of
13 reimbursing charter schools that are in their first year of
14 operation in the 2004-2005 school year for lease payments.
15 Any unexpended or unencumbered balance remaining at the end
16 of fiscal year 2005 shall revert to the public school capital
17 outlay fund. The amount of a grant to a charter school shall
18 be determined pursuant to Paragraph (1) of Subsection J of
19 Section 22-24-4 NMSA 1978, provided that:

20 (1) the amount per MEM used in Subparagraph
21 (b) of Paragraph (1) of Subsection J of Section 22-24-4 NMSA
22 1978 shall be three hundred dollars (\$300); and

23 (2) the MEM shall be calculated on the
24 enrollment in the charter school on the fortieth, eightieth
25 and one hundred twentieth days of the 2004-2005 school year.

1 Section 20. EMERGENCY.--It is necessary for the public
2 peace, health and safety that this act take effect
3 immediately. _____
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